

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA

Michael L. Green,)	Civil Action No. 0:13-623-MGL
)	
Plaintiff,)	
)	
v.)	
)	
Orangeburg Calhoun Detention Center;)	<u>OPINION AND ORDER</u>
Nurse Webber,)	
)	
Defendants.)	
_____)	

Plaintiff Michael L. Green, (“Plaintiff”), proceeding *pro se*, brought this action pursuant to 42 U.S.C. § 1983. (ECF No. 1.) In accordance with 28 U.S.C. § 636(b) and Local Civil Rule 73.02(B), D.S.C., this matter was referred to United States Magistrate Judge Paige J. Gossett for pre-trial handling and a Report and Recommendation. On September 3, 2013, Defendants filed a motion for summary judgment arguing *inter alia*, that Plaintiff failed to show deliberate indifference on the part of Defendants. (ECF No. 30.) Plaintiff filed his opposition on September 9, 2013. (ECF No. 35.) Plaintiff also filed his own motion for summary judgment on September 18, 2013. (ECF No. 36.) On March 28, 2014, Magistrate Judge Gossett issued a Report and Recommendation recommending that Defendants’ motion for summary judgment be granted and Plaintiff’s motion be denied. (ECF No. 43.) Plaintiff filed an objection to the Report and Recommendation on April 9, 2014. (ECF No. 45.) Defendant filed a reply on April 28, 2014. (ECF No. 46.) These matters are now ripe for review.

STANDARD OF REVIEW

The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight. The responsibility to make a final determination remains with this Court. *See Mathews v. Weber*, 423 U.S. 261, 270-71 (1976). The Court may accept, reject, or modify, in

whole or in part, the findings or recommendations made by the Magistrate Judge. 28 U.S.C. § 636(b)(1). The Court may also receive further evidence or recommit the matter to the Magistrate Judge with instructions. *Id.* The Court is charged with making a *de novo* determination of those portions of the Report and Recommendation to which specific objections are made. After conducting a *de novo* review of Plaintiff's objections and Defendants' response to Plaintiff's objections, and after considering the record, applicable law, and the Report and Recommendation of the Magistrate Judge, the Court concludes that Defendants' motion for summary judgment should be granted and Plaintiff's motion denied.

DISCUSSION

After considering the parties' submissions, the Magistrate Judge recommends that this Court grant Defendants' Motion for Summary Judgment as Plaintiff has not demonstrated a claim of deliberate indifference to his serious medical needs. In this matter, Plaintiff generally alleges he received insufficient medical treatment on his ear following an altercation with another inmate during which time Plaintiff was struck in the head. After reviewing the facts and issues in this matter in light of the relevant case law, the Magistrate Judge determined that Plaintiff's claim of deliberate indifference to a serious medical need fails and that at most, Plaintiff's claims allege negligence or medical malpractice, which is not actionable under § 1983. (ECF No. 43 at 4-6.) Plaintiff filed a brief response in opposition to the Report and Recommendation titled "Motion to Appeal" which this Court construes as objections to the Report and Recommendation. (ECF No. 45.) Plaintiff's general objections do little more than to state an overall disagreement with the Magistrate Judge's findings and Plaintiff fails to offer any new facts or evidence to support his allegations. Viewing the evidence in a light most favorable to Plaintiff, the Court finds that Defendants are entitled to summary judgment and that the Magistrate Judge has accurately

summarized the facts and applied the correct legal principles. Further, the Court has reviewed the substance of Plaintiff's Motion for Summary Judgment and finds that Plaintiff has not raised independent grounds for summary judgment.

CONCLUSION

After a *de novo* review of this matter, the Court has determined that Plaintiff's claims are without merit. The Court finds no error in the Magistrate Judge's analysis or conclusion. Plaintiff has failed to establish a genuine issue of material fact as to whether Defendants were deliberately indifferent to Plaintiff's serious medical needs. Accordingly, Plaintiff's objections are overruled. The Court adopts and incorporates the Report and Recommendation (ECF No. 43) by reference into this order. It is therefore ORDERED that Defendants' motion for summary judgment is GRANTED (ECF No. 30), Plaintiff's motion DENIED (ECF No. 36) and this case dismissed.

IT IS SO ORDERED.

s/Mary G. Lewis
United States District Judge

Spartanburg, South Carolina
August 12, 2014